IN THE CHANCERY COURT OF THE FIRST
JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

CLAUDE GRIFFIN, CLYDA MAE MYERS
AND TAMORA ROBINSON

PLAINTIFFS

VS. NO. G-94-1849

LOTTIE GRIFFIN (CAMPBELL)

DEFENDANT

ORDER OF DISMISSAL WITH PREJUDICE

THIS CAUSE came on for hearing before this Court on the Motion of Defendant on a Rule 12(b) (6) Motion to Dismiss the Plaintiff's Complaint for a Declaratory Judgment, the Defendant's defense based on the theory of Res Judicata and/or Collateral Estoppel and the Plaintiffs having responded to the Defendant's 12(b) (6) Motion, and the parties being represented by their respective attorneys, and the Court being advised in the premises and after due consideration thereof, it is the opinion of this Court that the Defendant's 12(b) (6) Motion to Dismiss with Prejudice predicated and based on the doctrines of Collateral Estoppel and/or Res Judicata is well taken and therefore the same is and should be granted in favor of the contentions of the Defendant and against the Plaintiffs.

THEREFORE, THE COURT DOES HEREBY ORDER and ADJUDICATE the following to-wit:

The Court has entered its Opinion of the Court in this case, wherein the Court's findings of fact and conclusions of law, dated January 22, 1996, has been filed and docketed and is recorded in the Minute Book 1228 at page 206 of the Chancery Court of the First Judicial District of Hinds County, Mississippi, and this Opinion of the Court with its findings of fact and conclusions of law is attached hereto as Exhibit "A" and is incorporated into this Order of Dismissal with Prejudice by reference in its entirety as if the findings of fact and conclusions of law were fully copied herein.

IT IS FURTHER ORDERED that based on the doctrines of Collateral Estoppel and/or Res Judicata, that the above entitled and numbered cause is hereby dismissed with prejudice with cost assessed to the Plaintiffs.

SO ORDERED and DECREED, this the 13th day of February, 1996.

/s/ Denise Owens
DENISE S. OWENS, CHANCELLOR

APPROVED AS TO FORM:

/s/ Edwin E. Kerstine
EDWIN E. KERSTINE
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Filed:
February 13, 1996
Alice James, Chancery Clerk
By: J. Auqua, D.C.

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

CLAUDE GRIFFIN, CLYDA MAE MYERS
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PLAINTIFFS

VS.

NO. G-94-1849

LOTTIE GRIFFIN (NOW CAMPBELL)

DEFENDANT

OPINION OF THE COURT

This matter is before the Court on Plaintiff's Complaint for Declaratory Judgment, Amended Complaint for Declaratory Judgment and Motion to Dismiss. This Court, having heard the matter, finds as follows:

Plaintiffs, Claude Griffin, Clyda Mae Myers and Tamora Robinson ("Plaintiffs") in their Complaint for Declaratory Judgment and Amended Complaint for Declaratory Judgement ("Complaint") allege that they are the owners of certain land lying and situated in the First Judicial District of Hinds County, Mississippi.

The Plaintiffs request this Court adjudicated by Declaratory Judgment against the Defendant and Judgment/Creditor, Lottie Griffin Campbell that the Plaintiffs have full, absolute and unequivocal right to the peaceful use, possession and enjoyment of the properties identified in the Complaint; and further adjudicate that the deeds Nancy Beck

recorded by placing Sylvester Griffins as title holder be cancelled and are void and of no force and effect. Plaintiffs further request this Court adjudicate void those portions of the decree of divorce and all of its amendments in *Griffin vs. Griffin*, Cause Number 137,128 of the Chancery Court of the First Judicial District of Hinds County, Mississippi, as entered on January 8, 1980, January 22, 1991, February 19, 1991, and May 1, 1991. These orders adjudicated the subject properties to be marital assets of Lottie Griffin Campbell and Sylvester Griffin.

Plaintiffs do not dispute that the Complaint for Declaratory Judgment is in effect a collateral attack on the judgments of this Court entered in the above referenced divorce proceeding styled *Griffin vs. Griffin*.

This Court previously heard extensive and exhaustive testimony in the divorce proceedings styled *Sylvester Griffin vs. Lottie Griffin*. At the conclusion of the divorce proceedings, this Court dictated its opinion in open court on November 10, 1989. Subsequently, this court entered a Judgment of Divorce on January 8, 1990, which Judgment was subsequently amended or modified on January 22, 1991, February 19, 1991, and May 1, 1991, respectively. That all of these judgments addressed and resolved the issues of jointly held property as well as the property owned solely by Sylvester Griffin.

Ownership of these certain properties was an issue during the divorce proceedings.

The properties identified and addressed in the divorce proceedings are the same properties which are the subject matter of Plaintiff's Amended Complaint for Declaratory Judgment. Ownership and division of these properties were adjudicated in the Judgment of Divorce and the subsequent modifications. Four-and-a-half years has expired between

the time of the entry of the Judgment of Divorce and the filing of this collateral attack upon those judgments by the Plaintiffs in this declaratory judgment action.

The subject matter as set forth in the Complaint is the same as the property issues which were the subject matter in the divorce proceedings between Sylvester Griffin and Lottie Griffin. The identity of the cause of action in the Complaint and the Judgment of Divorce are the same -- that being the ownership of property.

Plaintiffs assert they are in privity with Sylvester Griffin in so much as they had executed deeds to Sylvester Griffin. The doctrines of collateral estoppel or res judicata would be applicable to them. The Plaintiffs in the Complaint are precluded by the doctrine of collateral estoppel from relitigating the issues of ownership of the property set forth in the Complaint as these issues were decided in the Judgment of Divorce and subsequent orders related thereto in the divorce proceedings of *Sylvester Griffin vs. Lottie Griffin*, Civil Action Number 137,128.

The Complaint should be and the same is hereby dismissed with all costs assessed to the Plaintiffs.

SO ORDERED AND ADJUDGED this, the 22nd day of January, 1996.

/s/ Denise Owens
CHANCELLOR

Filed:
January 22, 1996
Alice James, Chancery Clerk
Joan Saulter, D.C.

EXHIBIT "A"